

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

JOHN ANDREW KISTER,

Petitioner,

V.

PATRICE RICHIE JONES,

Warden, et al.,

Respondents.

Civil Action Number
5:21-cv-01018-AKK-HNJ

MEMORANDUM OPINION

The magistrate judge filed a report on October 18, 2021, recommending dismissal, with prejudice, of John Andrew Kister's petition for a writ of habeas corpus as time-barred by 28 U.S.C. § 2244. Doc. 14. The parties were advised of their right to file specific objections within fourteen days, but Kister, instead of an objection, filed a motion to supplement his prior response to the court's show cause order. Doc. 15. Kister included his supplemental briefing with this motion, in which he asserted that the statute of limitations should have been equitably tolled to allow his case to proceed. Doc. 16.

The court reviewed Kister’s supplement and found that it was both untimely and duplicative: “Kister repeats arguments from his response, cites case law previously provided by the court in the report and recommendation, and provides evidence readily available to him prior to filing his response.” Doc. 17. The court thus denied Kister’s motion supplement but invited him to “raise these arguments [again] in properly filed objections to the report and recommendation.” *Id.* Despite

this invitation, Kister has not filed a proper objection to the report and recommendation, and the deadline for doing so has now expired. *See* doc. 14. Even treating Kister's supplemental briefing, doc. 16, as an objection, he has failed to raise a valid argument supporting equitable tolling for the reasons outlined in the court's denial of his motion, doc. 17.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court concludes that the magistrate judge's Report and Recommendation, doc. 14, is due to be adopted. A separate order will be entered.

DONE the 8th day of November, 2021.



ABDUL K. KALLON
UNITED STATES DISTRICT JUDGE